

**BOROUGH OF MIDDLESEX
ORDINANCE NUMBER 1842-13**

**BOND ORDINANCE PROVIDING FOR THE
RECONSTRUCTION OF FAIRVIEW AVENUE, BY AND IN
THE BOROUGH OF MIDDLESEX, IN THE COUNTY OF
MIDDLESEX, STATE OF NEW JERSEY;
APPROPRIATING \$380,000 THEREFOR (INCLUDING A
NEW JERSEY DEPARTMENT OF TRANSPORTATION
GRANT IN THE AMOUNT OF \$300,000) AND
AUTHORIZING THE ISSUANCE OF \$76,000 BONDS OR
NOTES OF THE BOROUGH TO FINANCE PART OF THE
COST THEREOF**

**BE IT ORDAINED AND ENACTED BY THE BOROUGH COUNCIL OF THE
BOROUGH OF MIDDLESEX, IN THE COUNTY OF MIDDLESEX, STATE OF NEW
JERSEY** (not less than two-thirds of all members thereof affirmatively concurring), **AS
FOLLOWS:**

SECTION 1. The improvement or purpose described in Section 3 of this bond ordinance is hereby authorized as a general improvement or purpose to be undertaken by the Borough of Middlesex, in the County of Middlesex, State of New Jersey (the "Borough"). For the said improvement or purpose stated in Section 3, there is hereby appropriated the sum of \$380,000, which sum includes \$300,000 as the amount of a Grant expected to be received from the New Jersey Department of Transportation (the "Grant") and \$4,000 as the amount of down payment for said improvement or purpose as required by the Local Bond Law, N.J.S.A. 40A:2-1 et seq. (the "Local Bond Law"). Said down payment is now available therefor by virtue of an appropriation in a previously adopted budget or budgets of the Borough for down payment or for capital improvement purposes.

SECTION 2. For the financing of said improvement or purpose described in Section 3 hereof and to meet the part of said \$380,000 appropriation until said Grant is received and not provided for by application hereunder of said down payment, negotiable bonds of the Borough are hereby authorized to be issued in the principal amount of \$76,000 pursuant to the Local Bond Law. In anticipation of the issuance of said bonds and to temporarily finance said improvement or purpose, negotiable notes of the Borough in a principal amount not exceeding \$76,000 are hereby authorized to be issued pursuant to and within the limitations prescribed by the Local Bond Law.

SECTION 3. (a) The improvement hereby authorized and purpose for the financing of which said bonds or notes are to be issued is the reconstruction of Fairview Avenue, including but not limited to, roadway excavation, milling, paving, reconstruction and resurfacing of the roadway, and the repairing and/or installation, as applicable, of curbs, curb ramps, sidewalks and driveway aprons, drainage work, roadway painting and landscaping and aesthetic improvements, and also including all engineering and design work, surveying, construction planning, preparation of plans and specifications, permits, bid documents, construction inspection and contract administration, and all

work, materials, equipment, labor and appurtenances necessary therefor or incidental thereto.

(b) The estimated maximum amount of bonds or notes to be issued for said improvement or purpose is \$76,000.

(c) The estimated cost of said improvements or purposes is \$380,000, the excess amount thereof over the said estimated maximum amount of bonds or notes to be issued therefor is the Grant and the down payment for said purpose in the amount of \$4,000.

SECTION 4. In the event the United States of America, the State of New Jersey, and/or the County of Middlesex make a contribution or grant in aid to the Borough, including the Grant, for the improvement and purpose authorized hereby and the same shall be received by the Borough prior to the issuance of the bonds or notes authorized in Section 2 hereof, then the amount of such bonds or notes to be issued shall be reduced by the amount so received from the United States of America, the State of New Jersey, and/or the County of Middlesex. In the event, however, that any amount so contributed or granted by the United States of America, the State of New Jersey, and/or the County of Middlesex, including the Grant, shall be received by the Borough after the issuance of the bonds or notes authorized in Section 2 hereof, then such funds shall be applied to the payment of the bonds or notes so issued and shall be used for no other purpose. This Section 4 shall not apply, however, with respect to any contribution or grant in aid received by the Borough as a result of using funds from this bond ordinance as "matching local funds" to receive such contribution or grant in aid.

SECTION 5. All bond anticipation notes issued hereunder shall mature at such times as may be determined by the Chief Financial Officer of the Borough, provided that no note shall mature later than one (1) year from its date or otherwise authorized by the Local Bond Law. The notes shall bear interest at such rate or rates and be in such form as may be determined by the Chief Financial Officer. The Chief Financial Officer shall determine all matters in connection with the notes issued pursuant to this bond ordinance, and the signature of the Chief Financial Officer upon the notes shall be conclusive evidence as to all such determinations. All notes issued hereunder may be renewed from time to time in accordance with the provisions of the Local Bond Law. The Chief Financial Officer is hereby authorized to sell part or all of the notes from time to time at public or private sale and to deliver them to the purchaser thereof upon receipt of payment of the purchase price and accrued interest thereon from their dates to the date of delivery thereof. The Chief Financial Officer is directed to report in writing to the governing body at the meeting next succeeding the date when any sale or delivery of the notes pursuant to this bond ordinance is made. Such report must include the principal amount, the description, the interest rate, and the maturity schedule of the notes so sold, the price obtained and the name of the purchaser.

SECTION 6. The Capital Budget of the Borough is hereby amended to conform with the provisions of this bond ordinance to the extent of any inconsistency herewith. In the event of any such inconsistency, a resolution in the form promulgated by the Local Finance Board showing full detail of the amended Capital Budget and capital programs as approved by the Director of the Division of Local Government Services, New Jersey Department of Community Affairs will be on file in the office of the Clerk and will be available for public inspection.

SECTION 7. The following additional matters are hereby determined, declared, recited and stated:

(a) The improvement or purpose described in Section 3 of this bond ordinance is not a current expense and is an improvement which the Borough may lawfully undertake as a general improvement, and no part of the cost thereof has been or shall be specially assessed on property specially benefited thereby.

(b) The average period of usefulness of said improvement or purpose within the limitations of the Local Bond Law, according to the reasonable life thereof computed from the date of the said bonds authorized by this bond ordinance, is 20 years.

(c) The Supplemental Debt Statement required by the Local Bond Law has been duly made and filed in the Office of the Clerk of the Borough and a complete executed duplicate thereof has been filed in the Office of the Director of the Division of Local Government Services, New Jersey Department of Community Affairs, and such statement shows that the gross debt of the Borough as defined in the Local Bond Law is increased by the authorization of the bonds or notes provided for in this bond ordinance by \$76,000 and the said bonds or notes authorized by this bond ordinance will be within all debt limitations prescribed by said Local Bond Law.

(d) An aggregate amount not exceeding \$80,000 for items of expense listed in and permitted under section 20 of the Local Bond Law is included in the estimated cost indicated herein for the purpose or improvement hereinbefore described.

SECTION 8. The full faith and credit of the Borough are hereby pledged to the punctual payment of the principal of and the interest on the bonds or notes authorized by this bond ordinance. The bonds or notes shall be direct, unlimited obligations of the Borough, and the Borough shall be obligated to levy *ad valorem* taxes upon all the taxable real property within the Borough for the payment of the bonds or notes and the interest thereon without limitation as to rate or amount.

SECTION 9. The Borough reasonably expects to reimburse any expenditures toward the costs of the improvements or purposes described in Section 3 hereof and paid prior to the issuance of any bonds or notes authorized by this bond ordinance with the proceeds of such bonds or notes. This Section 9 is intended to be and hereby is a declaration of the Borough's official intent to reimburse any expenditures toward the costs of the improvements or purposes described in Section 3 hereof to be incurred and paid prior to the issuance of bonds or notes authorized herein in accordance with Treasury Regulations §1.150-2. No reimbursement allocation will employ an "abusive arbitrage device" under Treasury Regulations §1.148-10 to avoid the arbitrage restrictions or to avoid the restrictions under Sections 142 through 147, inclusive, of the Internal Revenue Code of 1986, as amended (the "Code"). The proceeds of any bonds or notes authorized herein used to reimburse the Borough for costs of the improvements or purposes described in Section 3 hereof, or funds corresponding to such amounts, will not be used in a manner that results in the creation of "replacement proceeds", including "sinking funds", "pledged funds" or funds subject to a "negative pledge" (as such terms are defined in Treasury Regulations §1.148-1), of any bonds or notes authorized herein or another issue of debt obligations of the Borough other than amounts deposited into a "bona fide debt service fund" (as defined in Treasury Regulations §1.148-1). The bonds or notes authorized herein to reimburse the Borough for any expenditures toward the costs of the improvements or purposes described in Section 3 hereof will be issued in an amount not to exceed \$76,000. The costs to be reimbursed with the proceeds of the bonds or notes authorized herein will be "capital expenditures" in accordance with the meaning of section 150 of the Code. All reimbursement allocations will occur not later than eighteen (18) months after the later of (i)

the date the expenditure from a source other than any bonds or notes authorized herein is paid, or (ii) the date the improvements or purposes described in Section 3 hereof is "placed in service" (within the meaning of Treasury Regulations §1.150-2) or abandoned, but in no event more than three (3) years after the expenditure is paid.

SECTION 10. The Borough covenants to maintain the exclusion from gross income under section 103(a) of the Code of the interest on all federally tax exempt bonds and notes issued under this ordinance.

SECTION 11. This bond ordinance shall take effect twenty (20) days after the first publication thereof after final adoption and approval by the mayor, as provided by the Local Bond Law.

ATTEST:

Kathleen Anello, Municipal Clerk

Ronald S. Dobies, Mayor

INTRODUCED: August 14, 2013

DATE PUBLICATION
OF INTRODUCTION:

ADOPTED:

DATE OF PUBLICATION
OF ADOPTION: